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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/016,090	01/30/98	LEMARIE III	N MMED01

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QM31/1125

EXAMINER

NGO, L

ART UNIT	PAPER NUMBER
3731	3

DATE MAILED: 11/25/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/016,090

Applicant(s)
Lemarie III *LEMARIE*

Examiner
Lien Ngo

Group Art Unit
3731



☒ Responsive to communication(s) filed on 1-30-98

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-21 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 6- 8, 11, 12, 16 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 3-4, “ an opening located parallel to a longitudinal axis extending from the open end to near the closed end” is not disclosed in the specification and the drawing. “a consistent width” in lines 5-6 is vague and indefinite.

In claim 8, line 6, “a consistent width” is vague and indefinite.

In claim 7, 11, and 19, lines 3-4, “a center” is vague and indefinite.

In claim 6, 12, and 16, line 3, “a first surface” is vague and indefinite.

The Examiner interprets the claims of the present invention as broadly and indefinitely cited in this Office Action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

An anticipation under 35 U.S.C. 102(b) or 102(e) is established when a single prior art reference discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 USPQ 385 (Fed. Cir. 1984).

It is well settled that the law of anticipation does not require that the reference teach what appellant is teaching or has disclosed, but only that the claims on appeal "read on" something disclosed in the reference, i.e., all limitations of the claims are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1083). Moreover, it is not necessary for the applied reference to expressly disclose or describe a particular element or limitation of a rejected claim word for word as in the rejected claim so long as the reference inherently discloses that element or limitation. See, for example, Standard Havens Products Inc. v. Gencor Industries Inc., 953 F.2d 1360, 21 USPQ2d 1321 (Fed. Cir. 1991).

4. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Turkel et al. (5,395,375).

In regard to claims 1-3, 8, 13-15 and 20-21, Turkel et al. disclose, in figures 1, 3a and 3b, a tool for lacerating or grasping other objects comprising an outer shaft 15 having with an open end and an closed end, a consistent width actuator bar 60, a transition 65 near the tip end resulting in the tip end having a longitudinal offset axis displace from the longitudinal axis in a

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single plane, as seen in fig. 3a and 3b, a inner tip with a biting edge 616 rotationally engaged to the outer shaft, and a handgrip for translation means. Said inner tip interengages to a radial ridge 612 with a curve slot 614 located on an open side where translation of the actuator bar relative to the outer shaft which results in rotation of the inner tip relative to the outer shaft. Said outer shaft has a trough- like opening 620, as seen in figure 5a, a shaft hole 60b and axle hole 610, and a die edge 606, as seen in figure 5a.

In regard to claims 4, 10, and 18, the transition 65 occurs over a shift distance not exceed two times the width of the actuator bar, as seen in figure 3a.

In regard to claims 5, 9, and 17, the offset axis is displaced from the longitudinal axis a distance of 20%-75% of the width of the actuator bar, as seen in figure 2a.

In regard to claims 7, 11, and 19, the transition location is within four times the width of the actuator bar, as seen in figure 2a.

In regard to claims 6, 12, and 16, the radial ridge having an upper surface smaller in area than a lower surface and the curved slot having a first surface smaller in area than a lower surface, as seen in figure 4b.

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Conclusion

5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Michael Buiz, can be reached at (703)308-0871. The Group FAX number is (703) 305-3590.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-0858.

LN

Lien Ngo

November 20, 1998


MICHAEL BUIZ
SUPERVISORY PATENT EXAMINER
GROUP 3300

11/23/98